# NEW CHRISTIAN

JULY - AUG. 1959 EDITED BY KENNETH LESLIE

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Vol. XIII, No. 10 30 cents

# DARK CHALLENGE OF JUDICIAL SUPREMACY OF U.S. SUPREME COURT

By James L. Brewer

"The authorizing resolution of the Un-American Activities Committee was adopted in 1938 . . . It would be difficult to imagine a less explicit authorizing resolution.
"WHO can DEFINE the MEANING of 'UN-AMERICAN'?"

—Chief Justice Earl Warren.

To the camp of liberal political thought the exhibition of national democratic decline has manifested itself no more shockingly than in the campaign of assault on judicial supremacy status of the United States Supreme Court and its pattern of liberalizing decisions, beginning with the school desegregation issue of 1954, and continuing through a half dozen and more of celebrated Civil Rights decisions, named distinctively as of "The Warren Court," after the chief justice.

Recent drastic action of the American Bar Association in convention at Chicago, directed to reverse the Supreme Court in effect urged reverse action by Congress, arousing many supporters of the court's position to warn of threatening loss of ground gained on civil liberties since the McCarthy era.

Two bills with that purpose have already been passed by the House repeating the line of a group passed in the House last year, but defeated in the Senate by a single vote.

Kenneth B. Keating, newly-elected freshman Senator from New York, exuberantly entered the campaign with bills of his own to help put the desired legislation through. He maintains "the Congress has a duty to pass corrective measures when the court assumes legislative powers, misconstrues the intent of Congress, or presumes to pass upon the wisdom of statutes," as the Associated Press quotes him in a Senate speech.

The Senator disavowed questioning the authority of the Court, assuring "profound respect for its place in our system of government," but held that decisions of the high court have "made a mockery" of efforts to keep the country secure against "communist treachery," and have placed unwarranted obstacles in the way of law enforcement. Sober senior Senator of New York, Jacob J. Javits, warned of an all-out drive by "court raiders" to curb the court, declaring that passage of such measures as were included in the defeated 85th Congress Jenner-Butler Bill "would destroy the court's effectiveness as ultimate protector of the right of individuals and minorities."

The rift between the American Bar Association and the Supreme Court was underscored during the Chicago convention by a shocking formal announcement that Chief Justice Earl Warren had resigned from the Bar Association. No reason being officially given on either side, public speculation assumed it to be Chief Justice's

resentment of the Association's criticism of the court, it being noted of particular consequence that at the Association meeting held in London in 1957, at which the Chief Justice was in attendance, the Communist Tactics Committee of the Association implied that the Supreme Court was subverting the American way of life.

In this extraordinary drama of putting to trial the supreme judicial authority of the Supreme Court of the United States, action was taken by a conference of state justices highly consonant with the policy adopted by the American Bar Association.

A group of 28 Chief Justices of nine state Supreme Courts issued a manifesto castigating the national tribunal on the score of assuming legislative function in failure of duty to exercise "judicial self-restraint," as they put it.

They presumed to say that late U. S. Supreme Court civil rights decisions raised doubts as to America's being a government of laws and not of men. The manifesto urged the Supreme Court to differentiate between constitutional rights and powers on the one hand and local self-government on the other. Justices of New York, Massachusettes, Georgia, Maryland, South Carolina, Texas, Michigan, Wisconsin and Oregon signed the extraordinary complaint.

A searching examination of the procedure of the state justices revealed a stark absence of "judicial restraint," on their own parts as recounted by Editor Carey McWilliams in the Nation magazine under title, "Judicial Steamroller." He wrote:

> "When Senator Eastland attacks the Supreme Court, the yawns multiply from coast to coast; but when the Conference of State Chief Justices, by a vote of 36 to 8 endorses a long and sharply-worded resolution in criticism of the Court the press snaps to attention, as well it might. In this instance the press snapped much too uncritically and, as a result, has billed as "meaningful criticism" of the Supreme Court a report which will long be a major embarrassment to bench and bar. The gist of the report is that the Supreme Court has shown a lack of "judicial self-restraint." For judges, self-restraint is a duty, not a privilege or an option. To charge the nine justices of the Supreme Court with a failure to exercise "judicial self-restraint" is to imply that they have somehow violated their oath of office or, at the very least, have failed to measure up to accepted canons of judicial behavior.
>
> This is a serious charge, and doubly so when advanced by the chief justices of the forty-eight states. Yet how much "judicial self-restraint" was shown in adopting the resolution?"

The Editor went on to find that the state chief justices' conference acted strictly ultre vires, outside its function; that the justices were without authority of their respective courts; that a

31-page document, including a review of some 40 Supreme Court decisions was not available until the morning of the session, and could not possibly be voted upon on the merits; that the report was vigorously criticized by Justices of New Jersey, Pennsylvania and California, but given no real debate or discussion; that working for the resolution was a most "unjudicial" consideration. Editor McWilliams summed up: "Under the circumstances, therefore, the state chief justices, not those of the Supreme Court, are chargeable with a flagrant disregard of the principle of judicial self-restraint.

Leading scholars were prompted gravely to challenge the attacks on the court as having created a "necessity of defending the judical power itself, an attitude close to emasculating the court's power to protect the rights of citizens against unconstitutional, legislative encroachment."

The merits of the "Judicial self-restraint" issue, accusing the nation's highest tribunal of assuming the role of policy makers, was given brilliant exposition by C. Herman Pritchett, an outstanding author of works on the Supreme Court, reviewing in the late November 22 issue of the Nation magazine recent notable books on the court by two university men.

Pritchett declares it hard to remember the time when the main barrier to an understanding of the Supreme Court was a public attitude of over-veneration. Up to 1935 a property-minded, conservative court was protected, he says, by a carefully nurtured myth, that the interpretation of the constitution was an exercise in pure reason, unaffected by the personal predilection of the justices. When liberal legislation was declared unconstitutional, the public was told that it was not because the justices willed it, but because the constitution required it."

Since that time, says Pritchett, the myth was shattered, and a generally liberal court, has had to function before a public well aware that constitutional interpretation *is* policy formation, not legal exegesis.

"The sense of awe has vanished," he says, "instead we have violent attacks on the court as promoter of communism. A conference of state judges castigates the court for assuming legislative functions, and a journalistic busy-body (David Lawrence—J.L.B.) sends out a broad-side to judges of the lower federal courts, inquiring whether they agree with decisions of their superior tribunal."

Under such conditions, says Pritchett, there is danger that the new understanding of the court's policy role will be perverted into a denial of the legitimacy and the value of judicial participation in democratic policy formaton.

Pritchett declares the books, reviewed by him, written by "two of the ablest analyists" of the Court, "Marble Palace, the Supreme Court in American Life", by John B. Frank of Yale, and the "Supreme Court from Taft to Warren", by Alpheus Thomas Mason

of Louisiana State University, powerfully maintain the perspective now so badly needed.

He quotes Mason as seeing the movement of the recent Court as toward "positive responsibility." "Judicial self-restraint," he says, is by no means the essence of judicial responsibility, when political rights are denied by legislative action. It makes no sense to say that the only remedy lies with the legislature. The real problem is to protect individuals and minorities, without thereby destroying capacity in the majority to govern.

"This is the tremendous responsibility which the Warren Court has courageously assumed," Pritchett strongly concludes.

A letter by Dean Jefferson B. Fordham of the Law School of the University of Pennsylvania appeared in the New York Times, March 5, 1959, a withering criticism of the American Bar Association as aligning itself with the lay critics of the U.S. Supreme Court, and "failing the American public in interpreting the work of the Court in our legal and constitutional system." "Action of the House of Delegates," said the Dean, "disclosed strong preoccupation with matters of internal security, rather than protection of civil liberties. In my system of values the preeminent concern of lawyers as individuals and group is with human liberty; security does not mean much except as a means to preserve the conditions under which there will exist maximum freedom for individual human expression and fulfillment . . . Instead of the charge by the organized bar with reaching decisions inimical to our internal security, the Supreme Court should be warmly applauded by the profession for its fidelity to the substantive of statutes in keeping with the spirit of the Bill of Rights."

On May 2, 35 professors of Eastern universities, including the deans of the law schools at Harvard, Columbia, Pennsylvania and Yale, sent a telegram to the Senate Internal Securities sub-committee holding hearings on a half a dozen bills purporting to overturn civil liberties decisions, which said "No one of these bills seems to us to strengthen the democratic system they are intended to protect. On the contrary, in combination, they seem to jeopardize many of the values most highly cherished in a free society."

## THE CASE OF FRED W. STOVER

By Louise Harding

During nazi and fascist rule, in Germany and in Italy, any pretense of acting under law was finally abandoned. That there isn't much more than pretense left in these USA has been proven again, in the recently-concluded case which Fred W. Stover, president of the Iowa Farmers Union, brought against Radio Station WHO, of Des Moines, Iowa.

For years past, Mr. Stover has been conducting the best farm

paper in the country, and one of the most courageous and ably-run news organs of any kind, that we still have left to us after McCarthy had cut his swath of terrorism among us.

It refused to swallow the MacArthur-Dulles yarn about the way this country got into war against Korea—a tale that was completely knocked out when Louis Johnson testified in the congressional hearings on MacArthur: the Congressional Record has the full story of what actually took place.

At the suggestion of Johnson (connected with a firm manufacturing war planes), Truman gave the orders putting our warships and planes into action—U. N. *followed suit* some eight hours later in the day. This Truman called "a police action"—but he lied.

From the beginning, these midwestern farmers did not accept the falsehood, and their paper spoke right out, and mentioned the China Lobby by name—nearly the only non-politically-radical one in the whole Union with so much spunk. It has fought Benson and his flexible knee-d policy of subsidies, without letup or fear. Stover knows that the growing power of monopalies over the great natural resources of the country has been leading us steadily toward fascism—he has said so steadfastly, and refuses to be silenced.

As a result, the radio station, WHO, carried on the whole NBC network, put on a scandalous broadcast, February 21, 1954. It produced a woman named Helen Birnie, who, being interviewed by an employee of the NBC chain, averred that she was personally cognizant of a Communist Plot to take over the Farmers' Union: that she knew a mysterious person named James Harper alias Hal Ware, who organized the Farm Holiday Association and finally got it merged with the Farmers' Union, in a plan to take over the organization, and to get a member appointed to the U.S. Department of Agriculture. One of the conspirators, said Helen Birnie, in this broadcast,—"one of Hal Ware's picked men"—was "Fred Stover, the President of the Iowa Farmers' Union."

*English* (the interviewer) "And did you know him as a member of the Communist Party?

*Helen:* Yes, I attended a steering committee meeting with him when the merger was discussed."

Says the January-February issue of the Stover paper, which reports on the libel suit promptly brought by Mr. Stover after the broadcast,

"We had witnesses who were officers of the Iowa Farmers Union and of the Farm Holiday Association in Iowa who testified that *there never was a merger* of the Union and the Holiday as stated in the broadcast.

"Also all of the minutes of all the Board Meetings of the Iowa Farmers Union were put in evidence to show that no such action was ever taken or even contemplated."

As to the alleged C. P. Steering Committee meeting: Helen Birnie swore it was held in a room under the grandstand, on the

Fair Grounds in Des Moines. A witness testified that he was at the meeting; that it was not held under the grandstand, but in a house nearby; that Mr. Stover was not present, and that he had never met him.

The alleged "room turned out to be a booth, with no side walled up to the ceiling, but only part way up. "It had two openings, or apertures, one on each corner, but there were no doors and Mr. Dietz said there never had been any doors." (Henry Dietz was the Grounds Superintendent).—Some place to hold a conspiratorial gathering! Says the report: "We urged our attorneys to put Mr. Dietz on the witness stand, with all the blueprints for the buildings and rooms which he said were available, but they decided not to do it." (!)

The defense put on a reporter for the Des Moines Register, who said he was well acquainted with the grandstand rooms: and, under cross examination, he answered "Yes Sir" when asked if the room had doors on it.

—Obviously, the next move was to adjourn the court, and for the judge to walk over and see who was telling lies. He did nothing of the sort, and the Stover attorneys did not insist on it. So, this opportunity was lost.—These lawyers, when they get into capitalist-dominated courts! Why do their common sense and courage so often abandon them?

Long before the case came to trial, the defence had demanded that everything of a political nature, that Mr. Stover had written, be produced—to help them win their case! When they got this ridiculous request complied with in large part, they drew up a set of "interrogatories" for the victim to answer, so that if possible, he might incriminate himself. When the answers did not prove to serve that end, they were never produced in evidence; and so all that time and expense simply went for nought. —There was plenty of money for the defense.

The defense put on the notorious perjurer, Manning Johnson, who had previously been fully exposed. "It was put into the record that he lied, and when there was no way out, he said he would do it again a "thousand times," if the security of the state or the FBI required it, or words to that effect." An editorial published in the Des Moines Tribune July 24, 1954, mentioned Johnson as one whose testimony required the closest scrutiny. Writes Mr. Stover: "Let the record be clear that when the editorial from the Tribune was offered in evidence, the defense attorney objected, and Judge Needham *sustained the objection.* It of course would not be hard to surmise that not only WHO and NBC but also the Cowles Mid-West press monopoly would not want the jury to know that they had ever so much as frowned on or cast any reflection on WHO's main witness.

"So the question is pertinent—what kind of courts do we have when this kind of automatic protection is extended to these monopolies? When powerful corporations like NBC and WHO can put

on programs like the February 21, 1954 broadcast that are clearly 'lie piled on lie', and then when redress is sought in court, they can 'hire' admitted perjurers, and Judges not only permit such perjurers to clutter the record with new libel, but even protect their reputations from exposure to the jury, what recourse does a citizen have left?

"This puts every independent truth-seeking individual and organization in jeopardy."

A photographer named Hanley turned up in the case; he works for Life magazine, etc. He swore he heard Stover speak at a May Day celebration in Sydney, Australia. Hanley had photographs of parades with Communist banners and the like: he also had two photographs of Stover, but they were separate pictures. Stover did speak in Sydney, Australia—on the 23rd of April: his passport showed he returned to the United States on April 29th. Ergo, he never spoke at any May Day meeting in Australia.

A reporter for the Cowles press, which has been unfriendly to Stover throughout the case, was present in court, but neither the DesMoines Tribune nor the Register (both Cowles publications carried the telling evidence about the passport.

The defense used Johnson's "testimony" to smear people who worked for peace. They put plenty into the record about what they dub the Communist Peace Offensive—and there are very powerful influences among us which consider attempts against war very offensive, indeed! They mentioned the Mid-Century Conference for Peace, held in Chicago in 1950, prior to Korea. Mr. Stover spoke at that gathering.

"Some very distinguished Americans were sponsors of that Conference, including Dean John R. Thompson of Chicago, Professor Havighurst, and Professor Kermit Eby of Chicago University, the late John S. Nollen, President Emeritus of Grinnel College, some Iowa ministers, and many other outstanding educators and clergymen. But according to Johnson and the WHO attorneys all such men were "Communist Fronters."

(This was an attempt to create prejudice in the minds of the Jury).—L.H.

—The whole report on this case—Mr. Stover lost it—should be made into a pamphlet and circulated over the country and the world. It would convert anyone who still is naive enough to think that Justice prevails in the courts of USA. We do have a few honest judges; but if it is at all possible to do it, they are soon forced off the bench.

An attempt will be made to get a new trial.

## EDITORIAL PARAGRAPHS

The keenest political commentator in Canada is Andre Laurendau who examines the "Astonishing attitude of the English in Quebec," (MacLean's May 9, 1959). He points out that in contrast with the English in the rest of Canada who ridicule, oppose and denounce Quebec's authoritarian Duplessis rule, the English in Quebec itself are Duplessis' strongest supporters, that is, the wealthier English as represented by the *Gazette* and the *Star*. Laurendau finds the reason for this in a colonialism which encourages a local tyrant so long as he produces a tame obedient population of cheap workers. The English (as well as the French) benefit from such a condition and therefore *in Quebec* support the status quo.

John L. Lewis uses his mastery of the English language to blast the current labor reform legislation in the U. S. Congress. He calls the Barden Bill "88 pages of misery; weird and muttering rambles." He calls the McLellan Committee "a re-establishment of the principle of the star chamber of the Tudor and Stuart Kings, with a slight touch of the Spanish Inquisition." He opposed the Kennedy-Ervin Bill as "government control of unions." Bravo, John L. Lewis.

"Professor Calls P.M. Criminally Negligent" is the heading of a report in the Toronto Telegram (April 22, 1959). Prof. Bruno Marawetz of the philosophy department of Trinity College says "It is criminal for pompous empty-headed but grinning politicians to speak of 'lasting peace' and dream of great 'northern visions' when they have not mastered the ABC of history and economics."

"Our civilization cannot be saved," he says, "by another war, no matter who wins, yet our leaders encourage us to spend 60% of our budget on armaments."

James Carey's IUE (AFL-CIO) is taking a beating right across the country by the aggressive politically wise UE. Honesty and faithfulness pay in the long run. Union after union votes UE after dallying with the red-baiting IUE.

Mr. James L. Brewer, the well-known Rochester attorney, deals in this issue with the sinister attack on the Supreme Court. A whole series of bills armed to undo the liberal rules made by the Supreme Court are now before the Congress and only mass protest can prevent their passage.

The significent thing about the life and death of J. F. Dulles was that this Wall Street lawyer should ever have achieved such power and be given a hero's funeral. It all adds up to something

evil at the heart of a great country. The artificer of the Korean massacre, the would-be destroyer of China and possibly of the entire human race, the fanatic sustainer of the Cold War! Not Dulles, but an America that could follow him, is the remarkable fact.

## INTRODUCTION TO "THE SOVIET SPIRIT AND THE WESTERN CHURCHES"

BY KENNETH LESLIE

> "He has done a deed of might with his arm, he has scattered the proud with their purposes, princes he has dethroned and the poor he has uplifted, he has satisfied the hungry with good things and sent the rich away empty." (Luke 1:51 - 53)
>
> "The criticism of religion ends with the doctrine that man is the highest being for man; it ends, that is to say, with the categorical imperative that all conditions must be revolutionized in which man is a debased, an enslaved, an abandoned, a contemptible being . . . " (Introduction to a Critique of the Hegelian Philosophy of Right by Karl Marx).

It is in the above-quoted work of Karl Marx that we find the famous phrase about religion being the "opium of the people."

Here is one way this opium works.

George was a very pious man. At prayer meetings he never failed to pray, and in his prayers he accused himself of the sin of Adam, spiritual pride, complete degradation, moral obliquity, doubt, unfaithfulness . . . But somehow we understood that we were not to take these self-accusations seriously: indeed they seemed to accentuate his piety.

George never stood up and said 'I cheated' or 'I lied in such and such a manner on this or that day.' He never mentioned an actual sin. All actual sins were covered over by the sin of Adam, Original Sin with capital initials. Smoke a pipeful of Original Sin and actual sins went floating out the windows.

There are other ways this opium works, but this is the special form it takes today. Its oppostles are the neo-orthodox theologians who seem to have arrived just at the right time to ease the sore conscience of latter-day capitalism. Emphasizing the general or abstract wickedness of mankind they manage to duck out from under the accusing finger that points at specific acts. Such revolting crimes as the betrayal of Spain, the coddling of Trujillo and Jiminez, the holocausts of Hiroshima, Nagasaki and Korea, to mention but a few, become merely samples of that

*radical and therefore ineradicable* evil with which man and history have been cursed. The doctrine of radical evil or original sin thus becomes an opiate whose nauseating smoke confuses and dulls the consciences of men.

Not only does this doctrine of the Big Sin intoxicate the imagination so that it callously accepts its most hideous cruelty as the normal result of fallen man's condition, but it cuts the nerve of any attempt on the part of man to improve matters. For the doctrine says that at the very moment man thinks he is pulling himself out of the mire *his pride is pushing him deeper in.*

Here is where "God" comes in, according to the doctrine, but not to pull man out of the mire; there he is doomed to stay and to be judged and to be punished. The function of "God" is to show man what a fool he is to think he can improve himself.

It is a strange opium, this, not quite like the old pie-in-the-sky opium, more sophisticated, but just as deadly, sapping the energy of the victim of injustice and reconciling him to his inevitable fate. Over all the hopeful strivings of manknd it clangs the iron carillon of doom. The philosopher Kant used to say, quoting the old rhyme, "When duty whispers low thou must, the youth replies I can." But the Big Sin says you cannot. So why try?

*Religion as Orientation:*

To orientate yourself is to get your bearings in order that you may find your way.

Religions and philosophies are expressions of the attempt of people to find their way in the midst of the hazards and pitfalls of life. Finding a way involves the frequent taking of bearings. Where as I ? Where am I going ? What things in my life are important and should be held to at all costs? What things are basic, fundamental? What things incidental, unimportant? These are religious questions.

Are these questions answerable? Probably not as problems to be worked out logically and mathematically. But they must be answered implicity if life is to be lived. In other words their answers will be woven into the quality of life itself. To abstract the answers from life and to express them in theological or philosophical propositions has b e e n the frustrating ambition of thinkers in every age. Both question and answer speak out of the context of living, rooting out and building up, weeding and planting.

The minds of men are powerfully swift to evade the chore of living. At times, like criminals, men will sweat harder breaking the law than they would earning an honest living. For one of the laws is do not turn away from facts. However disagreeable they may appear to be, look them squarely in the face! Thus today with the example of a great new human civilization burgeoning before them the thinkers of the West twist and writhe in the toils of the obsolete categories of the past rather than simply open their

eyes and look at it.

The reason for this self-blinding is obvious enough. It is the fear that to see might be to approve and to approve would certainly bring down the wrath of the mighty upon their heads. And disapproval has been facilitated by the fact that the new culture has not yet had the opportunity to create an intercultural language. It will be different, now that cultural interchange has begun to develop.

For two score years a few have tried persistently and stubbornly to speak to this need. Discouraged from speaking, with understandably cold shoulders from the left, with downright hostility from the right, we believe it to have been nevertheless a worthwhile effort.

After all, our capitalism (albeit at an earlier stage) was the matrix out of which the socialist world was born. Something of the mother must be in the child, something good and something evil. Now that the child comes of age and confronts the world in the power and glory of history's latest and perhaps greatest civilization, now that there can no longer be the faintest possibility of crushing it or rolling it back, now that its cultural invasion as well as its economic invasion of the world has begun in earnest, and most of all because a violent clash must at all costs be avoided, fresh attempts at conversation are on the agenda.

Therefore it behooves us to sift out of the human heritage words and symbols with at least sufficient common meanings so that we can converse with one another. Religious pride and philosophic arrogance are one and the same underneath their grand words. The supreme needs for this hour are humility, give and take, an honest and passionate desire for mutual understanding.

## LETTERS TO THE EDITOR

Deeply I regret to learn of your illness but you are a brave man and you will recover. Only don't give up. Be patient because your many devoted friends send thoughts of recovery. We need you.

—A. H. Hollywood, California

The good decent American is sure being taken for a ride. He is being conditioned to an increase in taxes for 'Defense'. Here in Canada the gag doesn't work like it did anymore. The word 'Defense' is getting to be a dirty word . . . but in the 'Land of the Free' nothing happens and Joe McCarthy rests peacefully in his grave. He sure did a job of work!

E. L., Toronto, Can.

Enclosed are my few drops of water to aid a bit the sturdy oak —*yourself*—in his battle for an honest, just, kinder, fairer, better, nobler, and more intelligent, world—a truly Christian world. Would that the facts, and the ideas based upon facts, enunciated in your periodical, "New Christian", were widely diffused by the commercial press—the "free press", as it delights to call itself while it constantly sells itself to the highest financial bidder, or the strongest political pressure!

Slowly but surely there has been some improvement in the seeming inflexible status quo . . . still and all, BIG BUSINESS with its enormous stake in the cold war keeps those home fires burning with the aid of the Holy Roman Apostolic Catholic Church, and wishes no truck with Russia or China, presumably because of its great patriotism and love of country and democracy, but, actually, because of love of dollars, monopoly, no competition and power. Even so, your still small voice is valuable. It is extremely valuable to some. If only there were ten thousand more so courageous, factual, incisive and truly humanitarian as well as authentically democratic! That would be more than a miracle!

Matthew Weimar, Lake Hamilton, Florida

I congratulate you on your real Christian, fearless stand, in these times of chaos and hate. I am of Polish origin, have visited the New Poland, and love the spirit that is ruling it at present. While there I experienced and sensed the nearness of the coming brotherhood of all humanity. Yours for the better world.

C. U., Chicago, Illinois

What you write becomes better each passing year . . . When I read your burning, searing indictment of what passes for Christianity, I wish it could be broadcast by the millions—for surely some few would come back to life and reality . . . Today, with the breath-taking advance of science, it comes as a shock to look at the retrogression in the field of religion. What an efficient job religion does for the state and the state for religion. When the Time comes, I think they will go down together.

No one that I have ever come across has ever captured and expressed as beautifully and effectively as you, the heart and the spirit of the struggle for the attainment of social justice . . . And know that you are a continuous inspiration to me as I am sure you are to all who know you."

—D. G. Venice, California

Judge Edward P. Totten is dead. Here is to a good and true friend and a man who stood for things that could really make America great. Supposing the American people had a little more sense and would elect his kind to public office.

Can you look towards Washington with anything but contempt?

What's happened hurts.

—George Vikingstad, Blue Earth, Minnesota.

Enclosed find 10 dollars. I am sorry I am so far behind with my sub, but I will try and send a little more before too long, thanking you for keeping sending the magazine, as I sure enjoy it.

—J. A., Edmonton, Alberta

Dear Kenneth:

The enclosure is just a little underlining of my appreciation of the valued magazine and of my continuing admiration of your fine courage and self-sacrificing devotion to the great causes that are dear to us.

Ever yours in affectionate fellowship,

Eliot. (Rev. Eliot White)

*From the wife of the late Judge Totten.*

I realize how great was his influence for truth and justice and for peace on earth from the letters I receive day after day. Young men have told me, have written me that his courage in "taking it" has inspired them with courage to do likewise.

Is not the light of dawn showing now? I think Edward felt it.

He thought the NEW CHRISTIAN was the best magazine he received, and his admiration for your untiring struggle and your magnificent achievements was very great. I hope to continue receiving the NEW CHRISTIAN.

—Nora S. Totten, Orange, California

Good luck! and I hope the "New Christian" has ever an increasing circulation.

Your last copy of the New Christian I am sending to Germany, to a cousin of mine; he is a very religious businessman. I am not surprised at all that Hitler's hangmen are back; they will start the war for us, so business will improve again.

—L. D. Brooklyn, N.Y.

It would be a mistake on the part of Russia to permit the reunification of Germany. The time might come when Russia might have to face its enemies with a Germany armed to the teeth on their side. The articles written by yourself and Louise Harding in the last issue are very important and most interesting. Your Vatican piece is a great masterpiece, a classic; it should be printed in book form in every language and be read by everybody.

—H. C., Boston, Mass.

## FURTHER NOTE ON SUPREME COURT

By James L. Brewer

Free thought sustained the shock of an appalling retreat from the late widely-hailed decisions of the U. S. Supreme Court toward restoration of McCarthy era suppressed civil liberties by new later decisions by a shifted 5 - 4 majority of the courts to be viewed as "giving the signal for resumption of the governmental witch-hunts," rendered on June 8.

The decisions pertain to contempt of Congress findings applying to two educators, Lloyd Berenblatt and Willard Uphaus. Consequences of National gravity of the situation was incisively depicted in an analysis by Washington journalist, I.F. Stone, in his Weekly of June 15.

"Monday, June 8 was a black day in the history of the court," he declared. Widespread reading of momentous dissents by Justices Black and Brennan is urged. Stone maintains that shifting justice Frankfurter of the new majority "betrayed the cause of liberty in America." He says:

"The new syllogism starts with the Frankfurter thesis that the abridgement (of civil liberty) is constitutional, if reasonable, and proceeds to the minor premise that regulation is reasonable if it is aimed at Communists. The conclusion is that the witch hunters may do pretty much as they please so long as they claim to be hunting Communists. The effect is to outlaw the Communist party, a step (as Black points out) which Congress has several times refused to take, and to declare unlawful ideas which may be regarded as communistic. Harlan, writing for the majority bases this on the 'right of self-preservation' that oldest and mangiest crotchet of despotic government. That notion,' Black points out in a dissent which will rank as a classic in the literature of freedom, 'rests on the unarticulated premise that this Nation's security hangs upon its power to punish people because of what they think, speak or write about, or because of those with whom they associate for political purposes. The government in its brief virtually admits this position when it speaks of the "communication of unlawful ideas." I challenge this premise and deny that ideas can be proscribed under our Constitution. If the government can police against what it considers false ideas.' 'If we begin to punish speech, then, Black concludes, 'we cannot honestly claim to be a free nation.'

"By now, after the experience of the McCarthy years," continues Stone, "few will be naive enough to suppose that the outlawry of the Communist is of importance only to that broken little faction of elderly sectarians. The fear of being suspected of sympathy with them has cast a pall on public discussion of all the most momentous issues before us as a people. A whole generation of intellectuals has moved into a sterile suburbia and abdicated its rights and duties in order to escape the witch hunt. The mild

recovery, which followed on the censure of McCarthy and the liberal decisions of the Warren Court, is now jeopardized. The test is the test of the people. The Congress has been afraid to vote against the House Committee and Eastland's counterpart on internal security.

Many in Congress hoped the Court would dispose of these odoriferous vehicles for crypto-Fascism. Now the Court has surrendered."

Quoting Alexander Hamilton as declaring that basic liberties depend ultimately on "the general spirit of the people;" if their concern for freedom decays, no Bill of Rights can preserve it, Stone's publication pronounces this to be the challenge of the times in America, and urges a national emergency conference to defend the First Amendment. "The fight for peace cannot be won, if the fight for free discussion is lost."

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# NEW CHRISTIAN

JULY - AUG. 1959



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